

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FEBRUARY 4, 2009

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **February 4, 2009**, in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana, by Chief Executive Paul Babb.

ROLL CALL

10 present, 2 absent. Commissioners Moodry and Granger were excused.

PRAYER

Commissioners were led in prayer by Commissioner Lee.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JANUARY 21, 2009

It was moved by Commissioner Palmer, seconded by Commissioner Lee to approve the Minutes of the January 21, 2009 Regular Meeting. On the question Commissioner Hall said in Communication 09-33 she voted against that so it wasn't a unanimous vote. The motion passed with a unanimous verbal vote.

ITEMS NOT ADDRESSED ON THE AGENDA

None.

PUBLIC COMMENT ON ANY PUBLIC MATTER

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reported he had an e-mail from Commissioner Lee asking about the Hard Rock Trust money and where that might be in regards to a legal opinion. He said that he and Chuck Uggetti of the School District have drafted a letter and delivered it to County Attorney Joyce asking her to seek legal opinion from the Attorney General's Office. County Attorney Joyce said she did talk briefly to Chris Tweeten who is the Chief Civil Attorney General and he advised what information she needed to provide to them and that letter should be out to them by the end of the week.

Tomorrow at 7:45, the 2009 Economic Outlook Seminar will be at the War Bonnet Inn. It runs from 7:45 in the morning till 1:30 in the afternoon.

Tomorrow at 2PM Mr. Babb has set up a meeting and invited all of our bargaining units to the Council Chambers and we're going to use this as a Work Management Committee so that everybody can put everything on the table.

He said we have been working very closely Alec Hanson with the Montana League of Cities and Towns. He is keeping on top of the things in Helena. He will advise us if we need to go over and testify on anything. If you hear of any bill that you think that we need to be on top of, send me the bill number and I will e-mail Alec and ask him what he knows about it.

On Friday, February 13th, we are going to have Employee Service Awards at 2PM. That will be in the rotunda. We will have cake, coffee and punch.

SECTION I **PRESENTATION**
COMMUNICATION NO. 09-65

Corey Biggers, Montana Mountain Bike Alliance, requesting time on the 2/4/09 agenda to make a presentation on a proposal for a National Protection Area in the Lionhead.

Corey Biggers showed a power point presentation on the National Protection Area in the Lionhead.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer this to the Committee of the Whole next week.

SECTION II PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT PUBLIC COMMENTS ON PROPOSED AMENDMENTS TO THE FY 2008-2009 BUDGET TO CREATE BUDGET AUTHORITY FOR THE GREENWAY SERVICE DISTRICT ACTIVITIES. (Communication No. 09-29 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Dori Skrukrud, on behalf of the Greenway Service District, said this is a budget amendment to create budget authority for the 2008 grant that the Greenway Service District received from the Natural Resource Damage. It is a little bit over 2.1 million dollars.

Chief Executive Babb opened the public hearing at 7:55 PM and called for any proponents. On the third and final call, there being none, he called for any opponents. Again, there was no response so he closed the public hearing at 7:56 PM.

SECTION III

PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT PUBLIC COMMENT ON PROPOSED AMENDMENTS TO THE FY 2008-2009 BUDGET AUTHORITY FOR THE BUTTE NATIVE PLANT PROPAGATION NURSERY PROGRAM PROJECT IN THE AMOUNT OF \$1,700.00, (Communication No. 09-44 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Dori Skrukrud said this was a grant awarded to the Butte Native Plant Propagation Nursery Program that is being run out of Montana Tech. The EPA increased that award to \$1,700.00.

Chief Executive opened the public hearing at 7:57 PM and called for any proponents. On the third and final call, there being none, he called for any opponents. Again, there was no response, so he closed the public hearing at 7:58 PM.

SECTION IV

INVITATION FOR BIDS

SEALED BIDS ARE HEREBY INVITED FOR THE 2009 CONSTRUCTION SEASON ASPHALT SUPPLY. (Communication No. 09-52 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Dan Dennehy, Public Works Director, opened one bid from Montana Refining Company of Great Falls, Montana.

120 – 150 penetration grade asphalt PG-58-28 Oil	\$636.00/ton
CRS 2P emulsified asphalt	\$566.00/ton
No bid for RAP Rejuvenator reclaimite	
No bid for CRF emulsification oil	
MC800 oil	\$741.00/ton

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer the bid to the Public Works Department and report back to this council.

SECTION V

PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT PUBLIC COMMENT ON PROPOSED AMENDMENTS TO THE FY 2008-2009 BUDGET AUTHORITY FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDS IN THE AMOUNT OF \$666.00 FOR THE LAW ENFORCEMENT DEPARTMENT. (Communication No. 09-56 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Dori Skrukrud, said this is a carryover from this JAG Grant. It is used for equipment for the Law Enforcement Agency.

Chief Executive Babb then opened the public hearing at 8:00 PM and called for any proponents. On the third and final call, there being none, he called for any opponents. Again, there was no response so he closed the public hearing at 8:01 PM.

SECTION VI PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT PUBLIC COMMENT ON THE PROPOSED BUDGET AMENDMENT TO THE FY 2008-2009 BUDGET AUTHORITY FOR THE NATURAL RESOURCE DAMAGE PROGRAM FOR THE CHILDREN'S FISHING POND PROJECT IN BUTTE. (Communication No. 09-58 being held in Committee of the Whole) Proof of publication was noted and placed on file.

Dori Skrukrud, explained this is another 2008 grant that was awarded to the city and county of Butte-Silver Bow through the Natural Resource Damage Program. This \$25,000 is a planning grant for a feasibility study for the location of the children's fishing pond.

Chief Executive Babb opened the public hearing at 8:02 PM and called for any proponents. On the third and final call, there being none, he called for any opponents. Again, there was no response so he closed the public hearing at 8:03 PM.

SECTION VII PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT PUBLIC COMMENT ON THE PROPOSED BUDGET AMENDMENT TO THE FY 2008-2009 BUDGET AUTHORITY FOR DRINKING WATER IMPROVEMENT PROJECTS FUNDED BY GRANTS RECEIVED FROM THE NATURAL RESOURCE DAMAGE PROGRAM. (Communication No. 09-59 being held in Committee of the Whole) Proof of publication was noted and placed on file.

Dori Skrukrud, told the Council this is to increase the budget authority for upcoming projects. The Drinking Water Improvement Projects have been funded by the Natural Resource Damage Program.

Chief Executive Babb opened the public hearing at 8:04 PM and called for any proponents. On the third and final call, there being none, he called for any opponents. Again, there was no response, so he called the public hearing closed at 8:05 PM

SECTION VIII

CONSENT AGENDA

- A. 1. COMMITTEE OF THE WHOLE MEETING REPORT
- 2. FINANCE AND BUDGET COMMITTEE MEETING
- 3. JUDICIARY COMMITTEE MEETING REPORT
- 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. PETITIONS

C. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any “friendly amendments” or segregations. Commissioner Palmer called “friendly amendments” under B, Petitions, the recommendations were left off . They should be referred to the Public Works Committee (on both 1 and 2). On No. 8 under Section C, the name is misspelled. It should be Kriewald. The recommendation should read “schedule presentation and hold in Committee of the Whole.” No. 17 – the recommendation should read “concur and place on file. And 18 should be concur and hold in Committee of the Whole. Commissioner Shaw added a “friendly amendment” to complete a sentence on the actual budget transfer to read “Long Distances charges were greater than anticipated.” The Communication Number is 09-68. Commissioner Morgan asked for segregation of Communication 09-70. Commissioner segregated Communication No. 09-73.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 4, Section B, Items 1 and 2, and Section C, Items 1 through 21 exclusive of No 5 and No. 8.

Segregation - Communication No. 09-73

Frank Kriewald, requesting time on the 2/18/09 agenda for County Commissioners from Beaverhead, Madison, and Jefferson Counties and people From Butte to discuss the Beaverhead Deer Lodge National Forest Plan.

Commissioner Sheehy asked if the Forest Plan was going to be out in three weeks. Mr. Babb said it was his understanding it could be out in the next couple of weeks. Commissioner Sheehy said his concern is that we won’t have the Forest Plan and we will have these people in front of us without the completed Forest Plan. Should we delay it until we are sure we have the Forest Plan. Chairman Palmer said he thought we should kept it until the 18th right and we can always hold it in abeyance at that time.

It was moved by Commissioner Sheehy, seconded by Commissioner Foley to hold in the Committee of the Whole. The motion passed with a unanimous verbal vote.

Segregation – Communication No. 09-70

John P. Walsh, Sheriff, requesting a petty cash fund be set up to be used by the Detention Center.

Commissioner Morgan said he segregated this communication to ask Mr. Amerman if there is currently an ATM located at the jail. Mr. Amerman said it is, but he doesn't believe it is functional yet. The petty cash fund is designed so that they will be able to put a set amount in, probably in a range, maybe 2 to 5 thousand dollars that would act as an imprest fund. Meaning you would consider the balance always at \$5,000.00. As it gets drawn down you would have the authority to get another \$5,000.00 to put it in. When it was decided that the ATM would be our property and we would take responsibility for loading it. This then became necessary.

It was then moved by Chairman Palmer, seconded by Commissioner Lee to concur and place on file. The motion was passed with Commissioner Morgan voting nay.

SECTION IX COMMUNICATIONS TO BE READ AND ACTED UPON

23. 09-86 Dave Palmer, Council Chairman, requesting change in deadline for Communications to be placed on Regular Meeting Agendas.

Commissioner Palmer explained the purpose of this communication was to try to alleviate some of the confusion that happens when you have a backlog early Monday morning of communications that come in for the agenda. It seems everyone holds off until Monday morning to bring them in and then there is a lot of work that has to be done at that time to get them ready for the council chair to assign to committee and then they are put in packets and then they have be copied and distributed to all the commissioners. A lot of times there is an overtime issue involved when the Sheriff's department has to deliver these packets to the commissioners. I felt that at this time we should try making the deadline Friday at 2PM and I think it will work out much better that way as soon as everyone gets used to the 2PM Friday time. It frees up Helen to get everything in order. Commissioner Foley said he agreed but he didn't want to see more emergencies come in so he hoped it would be strictly enforced.

It was then moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to concur with the request in Communication No. 09-86 and placed on file.

SECTION X

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

1. COUNCIL BILL NO. 09-1 ORDINANCE NO. 09

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 204 AND SECTION 10.40.050 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “SPEED LIMIT;” ESTABLISHING A 35 MPG SPEED LIMIT BEGINNING AT THE INTERSECTION WITH HARRISON AVENUE AND CONTINUING WEST ALONG HOLMES AVENUE TO THE INTERSECTION WITH ROWE ROAD AND CONTINUING NORTHWEST ON ROWE ROAD AT 300 FEET NORTH OF THE INTERSECTION WITH LEXINGTON AVENUE, AN APPROXIMATE DISTANCE OF 1.3 MILES AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 09-8

A RESOLUTION APPROVING ACCEPTANCE OF AN EASEMENT FROM FRANK M. ANTONIOLI DESCRIBED AS A PORTION OF THE KINGS CLAY DEPOSIT PLACER, MINERAL APPLICATION NO. 1026, MINERAL ENTRY NO. 880, LOCATED IN A PORTION OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER SECTION 14, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., FOR THE LOCATION OF A STORM SEWER EASEMENT AND NECESSARY APPURTENANCES; FINDING THE NECESSARY FACTS FOR THE RESOLUTION AND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 09-9

RESOLUTION RELATING TO \$3,000,000 GENERAL OBLIGATION BONDS, SERIES 2009; AWARDING THE SALE THEREOF AND APPROVING THE OFFICIAL STATEMENTS THERETO.

SECTION XI

ORDINANCES AND RESOLUTIONS - FOR FINAL READING

1. COUNCIL BILL NO. 08-9 ORDINANCE NO. 08-9

AN ORDINANCE AMENDING SECTION 2 OF BUTTE-SILVER BOW ORDINANCE NO. 134 AND SECTION 204.010 (c) OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB); ADJUSTING THE ANNUAL SALARY OF

THE SHERIFF AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nay and 2 absent to place Council Bill No. 08-9, Ordinance No. 08-9 on final reading and passed having been deemed fully read at length.

2. COUNCIL RESOLUTION NO. 09-4

A RESOLUTION CALLING FOR AN IMPROVED NATIONAL ENERGY POLICY FOR THE 21ST CENTURY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll vote of 10 yes, 0 nays and 2 absent to place Council Resolution No. 09-4 on final reading and passed having been deemed fully read at length.

3. COUNCIL RESOLUTION NO. 09-6

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF UNDEVELOPED EAST GALENA STREET AND THE ALLEY WITHIN LOTS ON YELLOW JACK LODE IN BLOCK 3 AND A PORTION OF OHIO AVENUE IN BLOCK 7 OF THE KINGS ADDITION NO. 2 TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN. It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 09-6 on final reading and passed having been deemed fully read at length.

4. COUNCIL RESOLUTION NO. 09-7

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS THE EAST 56.5 FEET OF LOT 50 OF THE LIZZIE LODE, AN UNFILED PLAT, OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 09-7 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 8:30 PM

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER